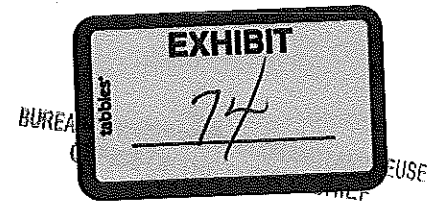


HALLORAN
& SAGE LLP
ATTORNEYS AT LAW



ANN M. CATINO Direct 860 297-4682 catino@halloran-sage.com

January 21, 2010

Paul E. Stacey
Department of Environmental Protection
Bureau of Water Protection and Land Reuse
Planning & Standards Division
79 Elm Street
Hartford, CT 06106-5127

Re: Remarks of Ann M. Catino
Regarding the Proposed Stream Flow Regulations

Good morning. My name is Ann Catino and I am here today to testify regarding the proposed stream flow regulations. I have been practicing environmental law for over 20 years and am the chair of the Environmental & Land Use Group at Halloran & Sage LLP. In my professional career I have represented real estate developers, manufacturers, and alternative energy suppliers – all who evaluate the availability and cost of water supply when making decisions whether to locate or expand in Connecticut. In addition, I have represented water companies in a variety of capacities, including developing additional sources of supply or as they wrestle with the affects of contaminated wells. Of primary significance to my testimony before you today, however, is my experience serving as the co-chair of the State's Task Force on Brownfield Strategies for the past three years. While the Task Force has officially ended, as the sunset date was not extended by the legislature for a fourth year, it is my experience as Task Force Chair that I bring to my comments today. That is, the impact of these proposed stream flow regulations on Brownfield redevelopment.

What to do with our state's Brownfields has been an overriding concern of the members of the General Assembly. The Task Force initiative arose out of concerns raised by the Commerce Committee that something needs to be done about our decaying cities, the abandoned manufacturing facilities that exist in many of our communities, and the overwhelming need to stimulate economic growth in our urban centers. For the past three years, the Task Force studied what our state needs to do to restore our former industrial sites and contaminated properties to productive reuse. And, each year, 2007 through 2009, new legislation was passed introducing important new laws to encourage municipalities and developers to redevelop our state's Brownfields.

Governor Rell also has called Brownfield redevelopment "a centerpiece of her economic development strategy." On January 17, 2010, she continued with her Administration's initiative to promote Brownfield redevelopment. Specifically, she announced that "the state is accepting

applications for three Brownfield programs and has streamlined the process for getting state assistance to turn Brownfields into the promise of new jobs and new economic development.”

Under Governor Rell’s leadership, the state has developed the Targeted Brownfield Development Loan Program and the Municipal Brownfield Pilot Program. The Office of Brownfield Remediation and Development was created within the Department of Economic and Community Development (“DECD”). And, DEP signed a collaborative agreement with DECD and the Connecticut Development Authority to prioritize Brownfield redevelopment and provide the necessary resources to the Office of Brownfield Redevelopment. DEP has demonstrated a commitment to assisting municipalities and business to working with the other agencies to redevelop these properties, consistent with the Governor’s goals to make Brownfield redevelopment a priority in our state. (Attached is a copy of her January 17, 2010 press release, which clearly sets forth the importance of Brownfields to our state’s economic vitality.)

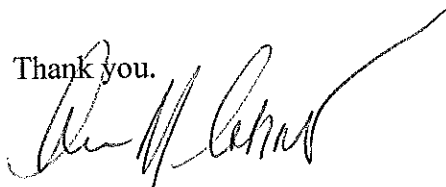
Simply put, Brownfields are ripe for new businesses, retail, housing, incubator industries and can restore a town’s tax base. Blight and urban decay can be removed as jobs or housing is created. Municipalities can restore various properties that have long been neglected. Brownfield redevelopment also serves “smart” or “responsible” growth initiatives. Many of our state’s Brownfields are in large, mid-sized and small communities served by public water – in Bridgeport, New Haven, Middletown, Norwich, New London, Waterbury, Hartford, Southington, Stamford, (etc.), where infrastructure exists. Infrastructure includes the water lines, the connections to and the availability of public water. Ensuring and maintaining public water supply (and at a reasonable cost) is the important connection between the proposed streamflow regulations and Brownfield redevelopment. Simply put, if public water cannot be delivered to these Brownfields through the existing infrastructure, the Brownfield will not be developed. A redeveloper or business owner must be confident that it will have a steady, dependable and reliable source of supply (at a reasonable cost) for residents or business operations or it will go elsewhere. And, where will that developer go? To open space, green space, and presently undeveloped areas. The developer will likely go to a parcel where it can drop a private well and, using creative methods, fly under the radar screen. Or, that businessmen will go out of state, leaving opportunities for our state behind.

In the past few days, I have read that certain public water authorities supplying water to urban areas (with Brownfields) have adequate reservoirs and groundwater reserves capable of supporting economic development, but depending upon the proposed (and presently uncertain) classification system for the rivers, streams or tributaries, that capacity may be drastically curtailed. Moratoriums and water use restrictions may become common. Such a result adds cost and uncertainty and is a disincentive to development. Brownfield redevelopment is a very costly and risky endeavor – something that the Task Force heard about from countless individuals representing businesses and municipalities. State programs need to be simplified, regulatory hurdles streamlined, uncertainties eliminated and the costs abated. These problems were incessantly repeated to the Task Force during its proceedings. The state is trying to address these issues, but with these proposed streamflow regulations, the Brownfield redevelopment initiative

is likely to suffer. Assuming there will be capacity available to a developer (which is a big question given these proposed regulations), the cost of compliance would be likely be borne disproportionately by these urban ratepayers and Brownfield developers and it is a further disincentive to Brownfield redevelopment.

Others will speak to the technical infirmities of these proposed regulations and whether these proposed regulations are consistent with statutory mandates and existing law and I share many of their concerns. And, others will speak to the importance of the maintaining and managing the resource. We do need to recognize and prize our high quality of drinking water and our supply and protect it. Many have spoken about the adverse economic development impacts. Water companies have discussed expected losses to existing customers. If existing customers will be adversely affected, there will be no future customers. Small and mid-size businesses, golf courses and ski areas all contribute to our quality of life. Restoring our urban and Brownfields *improve* our quality of life. My concern today is with the *collision course* that is created by these proposed regulations with the Brownfield redevelopment initiatives that have been embraced by the Governor, the legislature and several agencies including DEP. DEP should step back and truly look at the public policy implications associated with these proposed regulations from a larger perspective. It should study closely the effect of these proposed regulations on Brownfield and economic development, so the public policy initiatives underway are not stymied and fall victim to an unintended consequence. Any regulatory framework must account for insuring an adequate supply of water for public water companies who serve these urban and Brownfield areas where development (or redevelopment) has already been established as an important public policy goal.

Thank you.

A handwritten signature in black ink, appearing to read 'Ann M. Catino', with a long, sweeping horizontal line extending to the right.

Ann M. Catino

Attachment

Department of Economic and Community Development **Governor Rell Announces New Advances in State's Brownfield Redevelopment Agenda**

January 17, 2010

Contact: Donna Tommelleo, 860-884-8472, donna.tommelleo@ct.gov

Applications Open for Three Brownfield Programs

Governor M. Jodi Rell today announced that the state is accepting applications for three brownfield programs and has streamlined the process for getting state assistance to turn brownfields into the promise of new jobs and new economic development.

Brownfields are former industrial sites and other contaminated properties that can be cleaned up and returned to productive uses – areas for new business activity, housing developments, park land and other assets to communities.

Governor Rell has made brownfield redevelopment a centerpiece of her economic development strategy. Brownfields are often located in urban areas, places where new jobs and new, taxable development are needed most. Under her leadership the state has developed the Targeted Brownfield Development Loan Program and the Municipal Brownfield Pilot Program and established the Office of Brownfield Remediation and Development within the Department of Economic and Community Development.

"Late last year the state Bond Commission approved a total of \$4.75 million to back the Targeted Brownfield Development Loan Program and provide a second round of funding for the Municipal Brownfield Pilot Program," the Governor said. "This sends a clear signal to developers and municipalities that we remain committed to brownfield redevelopment even in times of economic crisis.

"Brownfield development makes so much sense," Governor Rell said. "It reclaims and rehabilitates land that otherwise would sit wasted and abandoned, creating jobs and opening the door for new economic opportunity. It provides a location for businesses to operate without using up the open spaces that we have worked so hard to preserve. And it does all these things in the parts of our cities and towns that need development most."

Applications for the Municipal Brownfield Pilot Program are due into the Department of Economic and Community Development (DECD) by March 1. Applications for the Targeted Brownfield Development Loan Program will be accepted on a continual basis, depending on funding availability.

DECD Commissioner Joan McDonald said the Office of Brownfield Remediation and Development (OBRD) recently developed a consolidated application for federal funding and all state programs, helping to minimize confusion and speed the application process.

DECD also is accepting applications for a new program called the Abandoned Brownfield Cleanup Program. Developers, if approved, will not be held accountable for investigation and remediation of offsite contamination. Applications for this program, which is being administered by DECD in partnership with the Department of Environmental Protection, are due by April 12.

Interested parties can download instructions and the new consolidated application form from the Latest News section of the ORBD Web site at www.ctbrownfields.gov or contact the ORBD at (860) 270-8090.